

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

John Sweeney

v.

Case No. 03-cv-350-PB

Belknap County DOC

NOTICE OF RULING

Re: Document No. 77, Defendants' Motion for
Summary Judgment

Ruling: Plaintiff's complaint is an action "with respect to prison conditions" that is based on 42 U.S.C. § 1983 and other federal laws. It is therefore subject to the administrative exhaustion requirement of 42 U.S.C. § 1997(e). Defendants argue in a properly supported motion for summary judgment that plaintiff failed to comply with this requirement. Plaintiff has failed to produce sufficient evidence in response to the motion to demonstrate that a genuine factual dispute exists on this issue. In a case such as this where the plaintiff has failed to comply with § 1997(e), the complaint must be dismissed without prejudice. See Medina-Claudio v. Rodriguez-Mateo, 292 F.2d 31, 35-36 (1st Cir. 2002). Motion granted. All other motions are denied.

Entered by: Paul Barbadoro, District Judge

Date: June 28, 2005

cc: B. Michael Cormier, Esq.
Brian J.S. Cullen, Esq.
John A. Curran, Esq.